

**PUBLIC SERVICE COMMISSION  
STATE OF MONTANA**

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October 6, 1999

**RECEIVED**

**OCT 8 - 1999**

**FCC MAIL ROOM**

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: CC Docket No. 96-45, DA 99-1847, Western Wireless Corporation  
Petition for ETC Designation, Crow Indian Reservation, Montana

Dear Ms. Salas:

On behalf of the Montana Public Service Commission I am enclosing for filing "Comments of the Montana Public Service Commission" pertaining to Western Wireless Corporation's August 4, 1999, petition to the Federal Communications Commission for designation as an eligible telecommunications carrier on the Crow Indian Reservation in Montana.

If you have any questions regarding this matter please feel free to contact me.  
Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Martin Jacobson".

Martin Jacobson  
Montana PSC Staff Attorney

Enclosures

cc: Attached Service List

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Before the  
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	CC Docket No. 96-45
	)	DA 99-1847
WESTERN WIRELESS CORPORATION	)	
	)	
Petition for Designation as an	)	COMMENTS OF THE MONTANA
Eligible Telecommunications Carrier	)	PUBLIC SERVICE COMMISSION
and for Related Waivers to Provide Universal	)	
Service to the Crow Reservation in Montana	)	

INTRODUCTION

On August 4, 1999, Western Wireless Corporation (Western) filed before the Federal Communications Commission (FCC) a "Petition for Designation as an Eligible Telecommunications Carrier and for Related Waivers for Crow Reservation, Montana." The Montana Public Service Commission (Montana PSC) appreciates this opportunity to submit comments to the FCC.

MONTANA PSC COMMENTS

The Communications Act of 1934, as amended, including through the Telecommunications Act of 1996, contemplates state designation of eligible telecommunications carriers (ETCs). *See e.g., § 214(e)(2)*. Western presently has pending before the Montana PSC a petition for designation as an ETC, statewide, including on the Crow Indian Reservation. *Montana PSC Docket No. D98.8.190*. With Western's recent petition before the FCC there is now a problematic situation wherein two jurisdictions are simultaneously asked to decide the same issues.

The Montana PSC, as the decision maker in Western's application before it, will neither comment nor attempt to persuade on the ultimate merits of Western's petition before the FCC,

but believes that it is critically important to advise the FCC on several important factors which the FCC should consider in regard to FCC designation of Western as an ETC.

The Crow Indian Reservation is in south central Montana and encompasses a rural area in which service is provided by carriers already designated ETCs, Project Telephone Company primarily, with U S West Communications, Inc., serving in some areas. For important reasons, the most apparent being preservation of the ability of existing ETC-designated carriers to continue service in rural areas, the Communications Act of 1934, as amended, including through the Telecommunications Act of 1996, makes state designation of additional ETCs in rural areas permissive. *See e.g., § 214(e)(2)*. Western has the right to petition for status as an additional ETC, but designation remains permissive and should be determined only after complete consideration of all relevant factors.

In addition to previous ETC designation of carriers serving in Montana, including on Indian lands within Montana, and including on the Crow Indian Reservation within Montana, the Montana PSC exercises ongoing regulation of regulated carriers, and, at any given time, has pending telecommunications proceedings affecting state and local concerns, also including on Indian lands, in ways which are closely intertwined with all other national and state telecommunications policies, including ETC designations. For reasons of proximity, familiarity, and practicality the Montana PSC is most probably in the best position to make a determination of additional ETC designation for carriers in Montana, including any ETC designation for Western on Indian lands within Montana.

The Montana PSC assures the FCC that Western's application for ETC status before the Montana PSC, including as that application pertains to ETC designation on Indian lands, will be thoroughly and fairly considered. A thorough proceeding on Western's request is required before any proper decision, federal or state, can be made regarding ETC status. In this regard, and also an important consideration for the FCC, the FCC should be advised that Western's assertions in its petition to the FCC, including assertions pertaining to the Crow Indian Reservation being remote, isolated, underserved, or unserved, having a low penetration rate and desperate need for additional telecommunications service, Western's ability to provide service required of ETCs, as

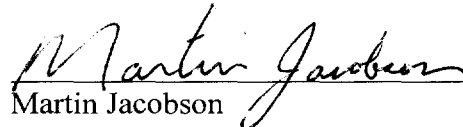
well as other assertions, are all issues which the present stage of the Montana PSC proceeding clearly indicates will be hotly contested.

MONTANA PSC RECOMMENDATION

The Montana PSC respectfully requests that the FCC: (a) dismiss Western's petition before the FCC, allowing Montana to consider ETC designation of Western on the merits, as applied for by Western in Montana, including ETC status on the Crow Indian Reservation; or (b) if dismissal is deemed inappropriate by the FCC, schedule prehearing and hearing procedures and conduct an evidentiary hearing on the matter, preferably within Montana.

Dated this 6th day of October, 1999.

Montana Public Service Commission

A handwritten signature in cursive script, reading "Martin Jacobson", is written over a horizontal line.

Martin Jacobson  
Special Assistant Attorney General  
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